

REMARKS

This response is intended as a full and complete response to the non-final Office Action mailed November 29, 2006. In the Office Action, the Examiner notes that claims 1-20 and 23-25 are pending and rejected. By this response, Applicants herein amend claims 17 and 20.

In view of the above amendments and the following discussion, Applicants submit that none of the claims now pending in the application are obvious under the provisions of 35 U.S.C. §103. Thus, Applicants believe that all of these claims are now in allowable form.

It is to be understood that Applicants do not acquiesce to the Examiner's characterizations of the art of record or to Applicants' subject matter recited in the pending claims. Further, Applicants are not acquiescing to the Examiner's statements as to the applicability of the art of record to the pending claims by filing the instant response including amendments.

Rejection under 35 U.S.C. §103 of Claims 1-16 and 25

The Examiner has rejected claims 1-16 and 25 as being unpatentable over U.S. Patent No. 5,631,693 to Wunderlich et al. (hereinafter "Wunderlich") in view of U.S. Patent No. 5,357,276 to Banker (hereinafter "Banker"). Applicants respectfully traverse the rejection.

To establish prima facie obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. Wunderlich and Banker, alone or in combination, fail to teach or suggest all of the limitations recited in claim 1, and thus fail to teach or suggest Applicants' invention as a whole.

Specifically, Wunderlich and Banker, alone or in combination, fail to teach or suggest at least the following emphasized portions of claim 1:

"An apparatus for video on demand programs comprising:
a receiver to receive requests for video on demand programs;
a network manager, connected to said receiver, to process said
program requests;
an authorization component, connected to said network manager,
to transmit a first authorization code, in response to a request for a video
on demand program, to authorize a set top terminal to tune to a specific

preview channel and to enable delivery of a requested program,

wherein the specific preview channel does not provide the full video on demand program; and

a file server, coupled to said network manager, to receive said first authorization code and send a second authorization code, wherein when the requested program is scrambled, the second authorization code enables descrambling said scrambled requested program, wherein said requested program is stored in the file server."

Wunderlich discloses a "system [which] comprises a headend coupled to a distribution network having a multiplicity of subscribers," the system having an "on demand services feature for the provision of video, audio, and data services." (See Wunderlich, Abstract.) However, as the Examiner acknowledges:

"Although Wunderlich discloses authorizing a subscriber to view the requested program (col. 9, lines 15-20 and 23-26), he fails to specifically disclose an authorization component to transmit a first authorization code to enable set top terminals to receive a requested program, use of a preview channel, and a second authorization code to descramble a scrambled program as recited in the claims." (pages 4-5 of the 1/11/2006 Office Action)

Applicants respectfully agree that Wunderlich fails to teach or suggest the authorization component to transmit a first authorization code to authorize a set-top terminal to tune to a specific preview channel and enable delivery of a requested program, and a file server to receive the first authorization code.

Banker fails to bridge the substantial gap between Wunderlich and Applicants' invention as claimed because Banker also fails to teach or suggest the authorization component to transmit a first authorization code to authorize a set-top terminal to tune to a specific preview channel and enable delivery of a requested program, and a file server to receive the first authorization code. Banker clearly teaches that a user tunes to a global preview channel to watch a preview. (See Banker, col. 10, ll. 7-11, emphasis added.) When a pay-per-view program is purchased, the viewer is directed to a different pay-per-view screen and subsequently an additional series of menus. (See *Id.* at ll. 11-16; FIG. 6.)

In stark contrast, the Applicants' invention teaches an authorization component to transmit a first authorization code to authorize a set-top terminal to tune to a specific preview channel and enable delivery of a requested program.

Consequently, unlike Banker, a viewer will remain on the specific preview channel and the requested program will be delivered directly to the viewer. Therefore, the Applicants' invention provides a more efficient delivery apparatus for video on demand programs.

Moreover, Banker does not teach or suggest a file server to receive the first authorization code. Even if Banker is interpreted broadly such that the billing computer is interpreted as being an authorization component, Banker still fails to teach that the billing computer transmits a first authorization code to a file server. Moreover, there is no suggestion in Banker to modify Wunderlich in a manner that would yield a file server to receive the first authorization code. Therefore, Wunderlich and Banker, alone or in combination, fail to teach or suggest Applicants' invention as a whole.

As such, Applicants submit that independent claim 1 is not obvious and fully satisfies the requirements of 35 U.S.C. §103 and is patentable thereunder. Moreover, independent claims 9, 10 and 25 contain substantially similar relevant limitations as those discussed above in regards to claim 1. As such, Applicants submit that independent claims 9, 10 and 25 are not obvious and fully satisfy the requirements of 35 U.S.C. §103 and are patentable thereunder. Furthermore, claims 2-8 and 11-16 depend, either directly or indirectly, from independent claims 1, 9, 10 and 25 and recite additional limitations thereof. As such, and for at least the same reasons as discussed above, Applicants submit that these dependent claims are also not obvious and fully satisfy the requirements of 35 U.S.C. §103 and are patentable thereunder.

Therefore, Applicants respectfully request that the rejection be withdrawn.

Rejection under 35 U.S.C. §103 of Claims 17-20 and 23-24

The Examiner has rejected claims 17-20 and 23-24 under 35 U.S.C. §103(a) as being unpatentable over Wunderlich in view of Banker and U.S. Patent 5,245,420 to Harney (hereinafter "Harney")

To establish prima facie obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. Wunderlich, Banker and Harney, alone or in combination, fail to teach or suggest all of the limitations recited in claim 17, and thus fail to teach or suggest Applicants' invention as a whole.

Specifically, Wunderlich Banker and Harney, alone or in combination, fail to teach or suggest at least the following emphasized portions of claim 17:

"An apparatus for delivering video on demand programs to set top terminals comprising:
an authorization component to receive requests for video on demand programs from the set top terminals;
an interface connected to said authorization component;
a network manager, connected to said interface, comprising:
a timer, wherein the network manager monitors program requests for a same program within a time period extending from an initial request for a video on demand program; and
a processor to process said program requests, wherein said processor includes an instruction memory, and said processor comprises control software to compile, group or count said program requests; and
a file server, connected to said authorization component, to (i) receive a first authorization code, generated in response to a request for a video on demand program, to authorize set top terminals to tune to a specific preview channel and to enable delivery of a requested program to all the set top terminals requesting the same requested program within the time period, and (ii) send a second authorization code to all the set top terminals requesting the same requested program within the time period, wherein when the requested program is scrambled, the second authorization code enables descrambling said scrambled requested program, wherein said requested program is stored in the file server."

As substantially similarly discussed above in regards to the 35 U.S.C. §103 rejection of claim 1, Wunderlich and Banker fail to teach or suggest at least the "file server, connected to said authorization component, to (i) receive a first authorization code, generated in response to a request for a video on demand program, to authorize set top terminals to tune to a specific preview channel and to enable delivery of a requested program."

Harney fails to bridge the substantial gap between Wunderlich and Banker and Applicants' invention as recited in claim 17. Harney discloses an "off premises CATV system" (abstract). However, the Harney reference also fails to teach or suggest at least the "file server, connected to said authorization component, to (i) receive a first authorization code, generated in response to a request for a video on demand program, to authorize set top terminals to tune to a specific preview channel and to enable

delivery of a requested program." Therefore, Wunderlich, Banker and Harney, alone or in combination, fail to teach or suggest Applicants' invention as a whole.

As such, Applicants submit that independent claim 17 is not obvious and fully satisfies the requirements of 35 U.S.C. §103 and is patentable thereunder. Moreover, independent claim 20 contains substantially similar relevant limitations as those discussed above in regards to claim 17. As such, Applicants submit that independent claim 20 is not obvious and fully satisfies the requirements of 35 U.S.C. §103 and is patentable thereunder. Furthermore, claims 18-19 and 23-24 depend, either directly or indirectly, from independent claims 17 and 20 and recite additional limitations thereof. As such, and for at least the same reasons as discussed above, Applicants submit that these dependent claims are also not obvious and fully satisfy the requirements of 35 U.S.C. §103 and are patentable thereunder.

Therefore, Applicants respectfully request that the rejection of such claims under 35 U.S.C. §103(a) be withdrawn.

CONCLUSION

Thus, Applicants submit that none of the claims presently in the application, are obvious under the provisions of 35 U.S.C. §103. Accordingly, both reconsideration of this application and its swift passage to issue are earnestly solicited.

If, however, the Examiner believes that there are any unresolved issues requiring adverse final action in any of the claims now pending in the application, it is requested that the Examiner telephone Eamon J. Wall or Jimmy Kim, at (732) 530-9404, so that appropriate arrangements can be made for resolving such issues as expeditiously as possible.

Respectfully submitted,

Dated: 2/27/07

E J Wall
Eamon J. Wall
Registration No. 39,414
Attorney for Applicant

PATTERSON & SHERIDAN, LLP

Serial No. 09/285,249

Page 13 of 13

595 Shrewsbury Avenue, Suite 100
Shrewsbury, New Jersey 07702
Telephone: 732-530-9404
Facsimile: 732-530-9808

524391-1